

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
JANUARY 17, 2013**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Kenneth Gordon, Vice Chair; Brian Gildea, Clerk; Jeffrey Dearing; Stephen Henning; Carol Amick and Todd Crowley

ABSENT: Angelo Colasante, Chair and Jeffrey Cohen

Mr. Gordon introduced himself and read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members introduced themselves.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #018-13 – Northwest Enterprises, at 8 Oak Park Drive, seeks a Special Permit per Section 7.4.3 to increase parking spaces.

Eugene (Gene) Sullivan introduced himself and began to discuss the project but was interrupted by Mr. Gildea. Mr. Gildea asked whether or not Mr. Sullivan had proper authority to represent Northwest Enterprises. Mr. Sullivan produced a letter signed by the property owner. Mr. Gordon examined the letter and determined that it permitted Mr. Sullivan to file papers on behalf of property owner with respect to the petition but not actually authorizing him to present before the Board. Mr. Gordon asked Mr. Sullivan if he would be able to provide a letter from the owner clarifying that he had permission to act on the owner's behalf before the Board. Mr. Sullivan confirmed that he had authority to present for the owner and that he would provide a clarifying letter within 7 days of the meeting. Based on that representation, Mr. Gordon permitted Mr. Sullivan to proceed.

Mr. Sullivan proceeded to discuss the proposed project to the Board. Mr. Sullivan explained that the business was growing and needed additional spaces for its employees. Mr. Sullivan indicated that there was no proposal to sublet any of the space and that this project was simply proposed to accommodate current expected business growth.

Members of the Board asked several questions pertaining to the number of additional spaces, the nature of the business and the current and expected future number of employees. The Board also asked about the elevation at several other possible sites for the proposed additional spaces but Mr. Sullivan explained that the topology didn't lend itself to an alternative location for the additional spaces. The Board also inquired about the orientation of the building and new spaces with respect to Middlesex Turnpike and Route 3.

After all of the Board's questions were addressed, Mr. Gordon opened the meeting to the public. With no comments, Mr. Gordon closed the meeting to public comment.

DELIBERATIONS:

Mr. Gordon said that the request before the Board was for a Special Permit. He expressed his view that the project seemed to be consistent with the intent and purpose of the by-law and that it was not detrimental or injurious to the neighborhood. He also indicated that he viewed the project as being consistent with the prior use as the proposal merely related to an expansion of an existing business. Mr. Gordon also commented that it is good to hear that businesses in Bedford were doing well enough to expand and he thought the Board should support such activity.

Other members of the Board expressed agreement with Mr. Gordon's view. They also noted that because the project was reasonable in scope and because the property was in a heavily wooded industrial area nestled between Middlesex Turnpike and Route 3, it is not likely to have any negative impact on any residence.

MOTION:

Mr. Gildea moved to grant Eugene Sullivan for Northwest Enterprises, at 8 Oak Park Drive, a Special Permit per Section 7.4.3 to increase parking spaces, substantially as shown on Exhibit A and subject to the condition that Mr. Sullivan provide, within 7 days of the meeting, a letter confirming his authority to act in a representative capacity for the property owner before the Board.

Mr. Gordon seconded the motion.

Voting in favor: Gordon, Gildea, Dearing, Henning and Amick

Voting against: None

Abstained: None

The motion carried, 5-0-0.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #017-13 – Pamela Brown, Esq., for Subway Restaurant, at 168 Great Road, seeks a Special Use Permit per Section 4.5.7 and per Table I: Use Regulations to operate a restaurant with seating, and to potentially modify Special Permit #023-09 regarding existing signs.

Pamela Brown, Esq., opened her presentation by introducing Hershal Parikh and Niral Gandhi as the franchise owners of the Subway restaurant. Ms. Brown then proceeded to describe the proposed project to the Board with reference to various exhibits. Ms. Brown explained that Mr. Parikh and Mr. Gandhi have entered into a franchisee agreement with Subway and that they hope to open the restaurant as soon as possible this spring. Ms.

Brown explained some the franchisee requirements imposed by Subway, including inspection and training practices.

There was some discussion as to what is the proper address of the restaurant as some documents reference 168 Great Road and other documents reference 170 Great Road. It was agreed that the Exhibits accurately illustrate and identify the property (with respect to other structures in mall area) subject to the Special Permit request.

Board members then asked questions directed to the expected operating hours, delivery times and trash pickups. Ms. Brown responded that the franchisee agreement requires that the restaurant be open for 96 hours per week and that the expected operating hours would be from 7 A.M. to 9:30 P.M. The opening at 7 A.M. was required to sell Subway's breakfast offerings. Ms. Brown also stated that trash receptacles were shared by multiple tenants and that pickups were organized by the property owner. There was a general discussion and agreement that deliveries could be limited to the hours of 7 A.M to 5 P.M. and that it would also be acceptable to Mr. Parikh and Mr. Gandhi that no detached trailers make deliveries on Sundays.

There was a general discussion of the signage but it was agreed that any modification of Special Permit #023-09 with respect to signage should be continued because no drawings or other specifications were presented to the Board.

There was a general discussion of parking but it was agreed that the mall area had sufficient parking for the restaurant use.

After all of the Board's questions were addressed, Mr. Gordon opened the meeting to the public. With no comments, Mr. Gordon closed the meeting to public comment.

DELIBERATIONS:

Mr. Gordon said that the request before the Board was for a Special Use Permit. He expressed his view that the project seemed to be consistent with the intent and purpose of the by-law and that it was not detrimental or injurious to the neighborhood. Other members of the Board expressed agreement with Mr. Gordon's view.

There was discussion of delivery conditions and hours of operations. There was additional discussion as to whether or not the Special Permit should be conditionally granted for a one year period. Ultimately it was decided that in the absence of the Chairman and Mr. Cohen (the most senior member of the Board), the Board would follow past protocol for special use permits and require a one year review.

Finally, the Board confirmed its previous view that any modification to signage should be postponed until presented with formal specifications and drawings. Therefore the Board, in consultation with Ms. Brown, proposed that the signage issue be postponed until February 28th at 7:30 P.M.

MOTION:

Mr. Gildea moved to grant Pamela Brown, Esq., for Subway Restaurant, at 168 Great Road, a Special Use Permit per Section 4.5.7 and per Table I: Use Regulations to operate a restaurant with seating in accordance with the plans as substantially shown in Exhibits A-D and subject to the following conditions:

1. that there be no detached trailer deliveries on Sundays;
2. that all deliveries be made through the back door;
3. that all deliveries be made between the hours of 7 A.M and 5 P.M;
4. that the hours of operations be limited to no earlier than 7 A.M and no later than 11 P.M; and
5. that the Special Permit will run for a trial period of 1 year commencing on the date that an Occupancy Permit is issued, after which time the applicants will appear before the Zoning Board for consideration of making the Special Permit permanent, and provided that the Board permit Ms. Brown to move to reconsider the language of the 1 year conditionality of the Special Permit prior to any decision that it may render with respect to any modification of Special Permit #023-09.

Mr. Gordon seconded the motion.

Voting in favor: Gordon, Gildea, Dearing, Henning and Amick

Voting against: None

Abstained: None

The motion carried, 5-0-0.

MOTION/CONTINUATION:

Mr. Gildea moved to grant Pamela Brown, Esq., for Subway Restaurant, at 168 Great Road, a continuation for consideration of the requested modification to Special Permit #023-09 until February 28th at 7:30 P.M.

Mr. Gordon seconded the motion.

Voting in favor: Gordon, Gildea, Dearing, Henning and Amick

Voting against: None

Abstained: None

The motion carried, 5-0-0.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #019-13 – Pamela Brown, Esq., for Panera LLC, at 213 Burlington Road, seeks a Special Permit per Article 40.4 Section 3(A)(1) to split wall sign into two or more signs, and per Article 40.5 Section 2 to illuminate signs.

Ms. Brown described the proposal with respect to several exhibits.

There was some discussion about whether or not the proposed sign was too large. However, calculations revealed that the granting of the Special Permit for the signage as proposed was within the scope of the power granted to the Board.

There was some discussion as to whether or not the proposed signage was a roof sign or whether the drawings illustrated the construction of a parapet such that it would be a wall sign. It was agreed that the drawings illustrated placement of the signage on a parapet and therefore it was acceptable under the by-law.

After all of the Board's questions were addressed, Mr. Gordon opened the meeting to the public. With no comments, Mr. Gordon closed the meeting to public comment.

DELIBERATIONS:

Mr. Gordon said that the request before the Board was for a Special Permit. He expressed his view that the project seemed to be consistent with the intent and purpose of the by-law and that it was not detrimental or injurious to the neighborhood. Other members of the Board expressed agreement with Mr. Gordon's view.

MOTION:

Mr. Gildea moved to grant Pamela Brown, Esq., for Panera LLC, at 213 Burlington Road, a Special Permit per Article 40.4 Section 3(A)(1) to split wall sign into two or more signs, and per Article 40.5 Section 2 to illuminate signs in accordance with the plans as substantially shown in Exhibits A-E and subject to the following condition:

1. that the lights be on a timer that turns the lights off during the hours of 11 P.M and 6 A.M.

Mr. Gordon seconded the motion.

Voting in favor: Gordon, Gildea, Dearing, Henning and Amick

Voting against: None

Abstained: None

The motion carried, 5-0-0.

With no business items to discuss, Mr. Gordon called for a motion to adjourn.

MOTION:

Ms Amick moved to adjourn the meeting.

Mr. Dearing seconded the motion.

Voting in favor: Gordon, Gildea, Dearing, Henning, Amick and Crowley

Voting against: None

Abstained: None

The motion carried unanimously, 6-0-0.

The meeting adjourned at 9:15 PM.

Angelo Colasante, Chair

Date

Respectfully Submitted,

Brian Gildea
ZBA Clerk